

REMARKS

Claims 23, 29-39, 42, 43, 46-48, 50-62 and 64 are presented in this application. Claims 23, 58, 62 and 64 are in independent form. Claims 1-22, 24-28, 40, 41, 44, 45, 49 and 63 have been previously cancelled. Claim 60 has been amended to further define the invention. The claim amendments and additions do not introduce new matter so that they should be entered at this time to reduce the issues for appeal. It is believed that these amendments do not raise new issues that require a further search. For the reasons that follow, it is respectfully submitted that these changes overcome the rejections, thus reducing the issues for appeal. In particular, applicants submit that these changes now place the entire application in condition for allowance.

Rejection under 35 U.S.C. § 112

Claim 60 has been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Examiner states that the amendment to recite that the hot water has a temperature "above about 70 degrees" is not part of the original disclosure. In response, Applicants have amended claim 60 to recite that "the hot has a temperature between about 70° C and about 95° C". Support for this amendment is found in paragraph [156] of the Published Application. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 23, 29-32, 34-37, 39, 42, 43, 46-48, and 50-57 have been rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Examiner states that the amendment to recite that "the sanitizing operation occurs non-concurrently with the cleansing operation and rinsing" is not supported by the original disclosure. Applicants respectfully point out that the examiner's response, "it is not clear how the sanitizing can be conducted not concurrent with rinsing for sanitizing", makes an improper association of claim terms. The phrase "for sanitizing" in the previous quotation is part of the recitation "for sanitizing the at least a portion of the dispensing path", which is actually a reference to "a sanitizing operation" defined earlier in the same clause. "[R]insing for sanitizing" is not a distinctly defined operation unto itself, as the Examiner's Response to Arguments seems to suggest. Support for the recitation that the sanitizing operation occurs non-concurrently with the cleansing operation can be found in paragraph [16] of the published application, wherein it is stated that "the first cleansing operation can be a cleaning operation, and the second cleansing

operation can be a sanitizing operation." Applicants respectfully note that the definition of concurrently is "occurring or existing simultaneously or side by side". *See*, <http://dictionary.reference.com/browse/concurrently>. Therefore, it follows that events or processes that occur "non-concurrently" are occurring non-simultaneously, as indicated in the cited passage of the specification. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

Claims 23, 29-32, 34-37, 39, 42, 43, 46-48, and 50-57 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully refer the Examiner to the remarks and citation made in the previous paragraph, and believe that the recitation by highlighting that they are distinct and different processes. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections.

Rejection under 35 U.S.C. § 102(b)/103(a)

The Examiner has again reminded the Applicants of their obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made. Applicants respond by stating once again that upon information and belief, all of the pending claims were commonly owned at all relevant times.

Claims 23, 29-32, 34-36, 39, 42, 43, 46-48, 50-56, 58 and 62-64 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,762,096 to Mirabile ("the Mirabile '096 patent"), which incorporates U.S. Patent No. 4,527,585 to Mirabile ("the Mirabile '585 patent"). In addition, claims 37, 57, 58, 59, 60 and 61 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Mirabile '096 patent.

The Examiner makes the proposition that "the claims are not limited to the hot water alone", but that they also "recite cleaning, rinsing and hot water." Applicants concur that those features are recited, but respectfully point out that the Examiner misstates their earlier argument in his oversimplification. The point of the earlier argument was that the present invention accomplishes the sanitizing operation by using hot water *exclusively*. Claim 23 recites "directing hot water to the at least a portion of the dispensing path to conduct a sanitizing

operation...wherein the hot water is at a temperature which is sufficient to sanitize the at least a portion of the dispensing path".

In contrast, Mirabile uses detergent to accomplish the same goal, stating that "in order to sanitize larger beverage conduits, more liquid detergent is typically required and valve 88 can be kept open for a longer period of time." *See*, Mirabile, col. 4, lines 64-67. Mirabile then commences a rinsing process wherein water alone is utilized to remove any cleaning solution that remains. Mirabile, col. 7, lines 30-34.

Clearly, Mirabile does not teach or suggest every feature of claim 23. Further, claims 29-32,34-36,39,42,43,46-48 and 50-56 all depend from claim 23, and are allowable for at least the reasons discussed above. Therefore, Applicants respectfully request withdrawal of the rejections of claims 23, 29-32,34-36,39,42,43,46-48 and 50-56.

Amended independent claims 58, 62 and 64 all recite in various ways the same feature of claim 23 that was discussed above, specifically, the use of hot water having a temperature which is sufficient to sanitize the at least a portion of the dispensing path. Further, claims 59-61 depend from claim 58, and are allowable for at least the same reasons. Therefore, Applicants respectfully request withdrawal of the rejections of claims 58-62 and 64.

Regarding the rejections of claims 37, 57, 59, 60 and 61, these claims depend from independent claims 23 and 58, and as such are allowable for the reasons already discussed above. Accordingly, Applicants respectfully request withdrawal of said rejections.

In light of Applicants' amendments and remarks, a notice of allowance is respectfully requested. Should the Examiner have any questions or concerns regarding the amendments, remarks or the above-identified application, then a telephonic interview with the undersigned is respectfully requested to discuss any such questions or concerns and to accelerate the allowance of the above-identified application.

Respectfully submitted,

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